

AUTHORIZING APPROPRIATIONS TO THE NUCLEAR
REGULATORY COMMISSION

AUGUST 6, 1984.—Ordered to be printed

Mr. BAKER (for Mr. McCLURE), from the Committee on Energy and
Natural Resources, submitted the following

REPORT

[To accompany S. 2846]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2846) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, and section 305 of the Energy Reorganization Act of 1974, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 9, strike lines 10 through 24.

BACKGROUND

On June 29, 1984, the Committee on Environment and Public Works reported S. 2846, the Nuclear Regulatory Commission Authorization bill. S. 2846 was sequentially referred to the Committee on Energy and Natural Resources for consideration of section 201, which amends the Nuclear Waste Policy Act of 1982. The text of the unanimous consent request for the sequential referral follows: (Congressional Record, June 29, 1984, Vol. 130, No. 92-Part II, (S. 8921).)

Mr. DOLE. Mr. President, I ask unanimous consent that once the Environment and Public Works Committee reports the authorization bill for fiscal year 1984 and 1985 for the Nuclear Regulatory Commission, it be referred to the Energy Committee until not later than August 10, 1984.

The PRESIDING OFFICER. Without objection, it is so ordered.

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Mr. DOLE. The purpose of this referral is to permit the Energy Committee to review the provision (sec. 201) of the bill, amending the Nuclear Waste Policy Act of 1982.

The Nuclear Waste Policy Act of 1982 (Public Law 97-425) authorized certain facilities and established a schedule for the disposal of civilian high-level nuclear waste. The Act also provides a process by which affected States and Indian tribes can interact with the Federal Government in the siting, construction, and operation of nuclear waste facilities. Opportunities for public hearings and public comment are enumerated. The process also provides for a binding written agreement between the Secretary of Energy and a State that has a potential site for a nuclear waste repository within its borders or an Indian tribe that may be affected. This written agreement would cover issues, including information exchange, liability, scheduling, monitoring, transportation, financial assistance and mechanisms for conflict resolution. In the event that affected States or tribes have outstanding objections for a proposed repository site, they may submit a notice of disapproval to the Congress. Unless both Houses pass a resolution approving the site, the Secretary of Energy would not be authorized to proceed with a facility at that site.

Section 201 of S. 2846 amends the Nuclear Waste Policy Act by providing that certain provisions of the Act (i.e., sections 115, 116, 117, and 118) are the exclusive rights of participation by an affected States or Indian tribe for the waste facility except that States and tribes may exercise any recognized right under existing law regarding these facilities. The text of the section is as follows:

TITLE II—AMENDMENT TO THE NUCLEAR WASTE POLICY ACT OF 1982

SEC. 201. The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is amended by adding a new section 126 as follows:

"SEC. 126. The provisions of sections 115, 116, 117, and 118 of this subtitle shall constitute the exclusive rights of participation by an affected State or Indian tribe in the planning, siting, development, construction, and operation of a repository or a monitored, retrievable storage facility that is required to be licensed by the Commission: *Provided, however,* That nothing in this Act shall preclude any recognized right of any State or Indian tribe under existing law with respect to such repository or monitored, retrievable storage facility."

SUMMARY OF COMMITTEE ACTION

The bill was referred to the Subcommittee on Energy Research and Development for consideration. On July 31, 1984, the Subcommittee held a hearing on section 201 of S. 2846. Testimony was heard from U.S. Senator Thad Cochran from the State of Mississippi, the Honorable Ben C. Rusche, Director, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, Mr. Steven Frishman, Director, Nuclear Waste Program, Office of the General Council, State of Texas, Mr. David M. Berick, Director, Nuclear

Waste Project, Environmental Policy Institute, and Mr. Sherwood H. Smith, Jr., Chairman, Chief Executive Officer and President, Carolina Power and Light Company, on behalf of the Edison Electric Institute, American Nuclear Energy Council, and the Utility Nuclear Waste Management Group. A statement by Governor Scott Matheson of Utah, was provided for the record.

On August 1, 1984, the Committee on Energy and Natural Resources, by voice vote with a reporting quorum present, agreed to an amendment proposed by Senators Domenici, Johnston, Levin, Ford, and Hecht to strike section 201 from the bill and recommended that the bill be reported as amended.

DISCUSSION

The Committees decision to strike section 201 was based upon several arguments made by witnesses during the hearing of the Subcommittee on Energy Research and Development. Several of the witnesses argued that it was premature to open the Nuclear Waste Policy Act to amendment.

The States of Texas, Utah, and Mississippi, each of which have sites which are being investigated for the first nuclear waste repository, recommended that the provision be struck from the bill. The Department of Energy (DOE), the Environmental Policy Institute and the groups representing the nuclear power industry also felt the provision was unnecessary. As the witness for the State of Texas stated, all of the testimony was "very much along the same line and this may be unique for this program."

Each of the potential host States for a waste repository and the DOE noted that the exclusivity clause of section 201 (i.e., restricting the rights of participation of affected States or tribes in nuclear waste disposal to certain provisions of the Nuclear Waste Policy Act) would restrict the flexibility of the DOE to work with States in resolving their concerns. Examples including environmental issues, financial assistance, and information exchange were given.

The proviso to the exclusivity clause which permits States to exercise "recognized rights" under "existing law" was also a subject of comment. Under questioning, the DOE could not give a definitive interpretation of what a "recognized right" was nor could the Department give a clear interpretation of what constituted an "existing law." On this latter point, the State of Texas pointed out that if the intent was that any State law passed prior to the passage of the Nuclear Waste Policy Act of 1982 was an "existing law," then a ground water protection statute recently passed by that State that could apply to a nuclear waste repository, would not be valid. Thus some States might be precluded from exercising what otherwise might be an legitimate right, simply because they had failed to exercise that right prior to the passage of the Nuclear Waste Policy Act in 1982. The Committee believes that the policy of equality among the States and Indian tribes in their procedural dealings with the DOE under the Nuclear Waste Policy Act of 1982 is an important principle. At the hearing the Administration witness stated that the enactment of section 201 might result in inequities among States with respect to rights to participate in the facilities siting process.

COST AND BUDGETARY CONSIDERATION

Section 252. (a)(1) of the Legislative Reorganization Act of 1970 requires publication of the Committee's estimate of the costs of reported legislation, together with estimates prepared by any Federal agency. The Committee took no action other than striking section 201 and therefore defers to the Committee on Environment and Public Works for an estimate of the overall cost of the legislation. The omission of section 201 will have no effect on cost of implementing the Nuclear Waste Policy Act of 1982 (Public Law 97-425).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 2, 1984.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On August 1, 1984, the Congressional Budget Office transmitted a cost estimate for S. 2846, as ordered reported by the Senate Committee on Energy and Natural Resources, August 1, 1984. As noted in the estimate, the difference between that estimate and the estimate of S. 2846 as ordered reported by the Senate Committee on Environment and Public Works reflects the recent enactment of the 1985 appropriation for the Nuclear Regulatory Commission. The amendment made by the Energy and Natural Resources Committee did not affect the budget impact of the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.
U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 1, 1984.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2846, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, and section 305 of the Energy Reorganization Act of 1974.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2846.
2. Bill title: A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, and section 305 of the Energy Reorganization Act of 1974.

3. Bill status: As ordered by the Senate Committee on Energy and Natural Resources, August 1, 1984.

4. Bill purpose: This bill authorizes the appropriation of \$466.8 million and \$460 million for the Nuclear Regulatory Commission (NRC) for fiscal years 1984 and 1985, respectively. Appropriations to date are \$465.8 million for fiscal year 1984 and \$448.2 million for fiscal year 1985.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988
Authorization level.....	466.8	460.0			
Less: Existing appropriations.....	465.8	448.2			
Net additional authorization.....	1.0	11.8			
Estimated outlays.....		8.3	3.8	0.7	

The costs of this bill fall within budget function 270.

Basis of Estimate: For the purposes of this estimate, it is assumed that this bill will be enacted by September 1984, and that the entire amounts authorized will be appropriated. The estimated annual outlays are based on the recent spending patterns for the NRC's programs.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On June 20, 1984, the Congressional Budget Office transmitted a cost estimate for S. 2846, as ordered reported by the Senate Committee on Environment and Public Works. The difference between the estimated budget effects of the two bills is due to the recent enactment of 1985 appropriations for the NRC.

The CBO also prepared cost estimates for two similar bills in May 1983: H.R. 2510, as ordered reported by the House Committee on Interior and Insular Affairs, S. 1291, as ordered reported by the Senate Committee on Environment and Public Works. (These estimates were transmitted to the respective Committees on May 3, 1983 and May 13, 1983.) Although the amounts authorized in the four bills are the same, the estimated budget effect of S. 2846 differs from the previous estimates because funds have been appropriated for 1984 and 1985, and because of changes in the spending patterns assumed for this agency.

9. Estimate prepared by: Kathy Gramp.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

EVALUATION OF REGULATORY IMPACT

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact of the reported bill:

The Committee took no action other than striking section 201 and therefore defers to the Committee on Environment and Public Works. The omission of section 201 will have no regulatory

impact associated with the Nuclear Waste Policy Act of 1982 (Public Law 97-425).

EXECUTIVE COMMUNICATIONS

Set forth below are the relevant testimonies and communications with regard to the bill, S. 2846, as introduced:

THE SECRETARY OF ENERGY,
Washington, DC, November 14, 1983.

Hon. JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning a provision, contained in legislation authorizing funds for fiscal years 1984 and 1985 for the Nuclear Regulatory Commission that is being considered by the Senate Committee on Environment and Public Works, which would affect the rights of a State or Indian tribe to participate in the planning, siting, development, construction, and operation of a civilian nuclear waste repository or a retrievable, monitored storage facility.

The Department of Energy opposes adoption of such legislation. First, the Nuclear Waste Policy Act of 1982 (the Act) represents a hard-won compromise achieved after literally years of consideration and debate. It would be premature to amend the Act and possibly upset its finely-tuned and balanced provisions. Second, I believe the provisions of the Act relating to consultation and cooperation with the affected States are working well and see no need for amendment at this time. Ironically, by providing that the provisions of title I of the Act constitute the exclusive rights of participation by a State, the amendment could preclude our present informal consultation and cooperation arrangements because the Act makes no provision for arrangements other than full and formal written agreements.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of these comments for the consideration of the committee.

Sincerely,

DONALD PAUL HODEL.

STATEMENT OF BEN C. RUSCHE, DIRECTOR, OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, U.S. DEPARTMENT OF ENERGY

Mr. Chairman and members of the subcommittee; I am pleased to appear before you to discuss the Department of Energy's views on Section 201 of the Fiscal Year 1984 and 1985 Nuclear Regulatory Commission Authorization Bill (S. 2846).

Section 201 of S. 2846 proposes an amendment to the Nuclear Waste Policy Act of 1982. The Department of Energy opposes the amendment.

Before I discuss the Department's specific position on this proposed amendment, I would like to reaffirm my view of the Nuclear Waste Policy Act.

Passage of the Nuclear Waste Policy Act of 1982 and its signing into law by the President represented a major step forward in our Nation's effort to manage high-level waste and spent fuel.

The Act is a prime example of the democratic, bipartisan process. Many provisions of the Act are yet to be tested in actual practice, but the Act has established, unequivocally, the United States commitment to geologic repositories as the choice for providing reasonable assurance, for the long-term, that the public and the environment will be adequately protected against the potential hazards from high-level radioactive waste and spent nuclear fuel.

If there ever was a case in which a law was set up to be interactive and responsive to the parties affected by the law, the Nuclear Waste Policy Act is that law. It provides a clearcut mandate and climate for openness and consultation with States and the public.

Over these first two months as Director of the Office of Civilian Radioactive Waste Management, I have spent a substantial amount of my time interacting with the States—those States included in the potential first repository states, those States included in the crystalline rock program, and many States through which waste may be transported. I am both obligated by law and personally committed to involvement on a regular basis.

The Department opposes adoption at this time of any amendments to the Nuclear Waste Policy Act. From my perspective, this law is working—as written. I believe that we should continue with it, as is, until such time as it doesn't seem to be working.

Section 201 of S. 2846 would amend the Act so that "The provisions of sections 115, 116, 117, and 118 . . . shall constitute the exclusive rights of participation by an affected State and Indian tribe in planning, siting, development, construction, and operation of a repository or a monitored, retrievable storage facility that is required to be licensed by the Commission. . . ."

By having the provisions of these sections constitute "exclusive rights of participation by affected States and tribes," in our view, the Department of Energy could be precluded from continuing informal consultation and cooperation with States and tribes.

Adoption of the proposed amendment contained in S. 2846 could, in our view, have a number of specific severe adverse effects. It could, for example:

1. Prevent the Department of Energy from working with local governments and communities in early phases of the program.
2. Preclude information activities between the Department and pre-notification States and tribes.
3. Preclude information activities between the Department and first repository tribes that have not been formally designated as "affected Indian tribes."
4. Prevent us from working with and providing financial assistance to state organizations at the national level whose constituents may be affected.
5. Prevent us from working with States which are not potential repository states but which are involved in or would be affected by transportation of nuclear waste.

The Department has endeavored to apply the provisions in the Act in ways that most effectively accomplish participation by

States and Indian tribes. Actions which could narrow participation would adversely impact the interests of such States and tribes.

In addition, in our view, major participation of affected States and tribes in the site characterization process might have to await signing of formal consultation and cooperation agreements which are currently being negotiated under section 117 of the Nuclear Waste Policy Act.

In summary, Mr. Chairman, I would like to confirm the Department's position, as previously indicated by letter dated November 14, 1983, from the Secretary to Chairman McClure, regarding the adoption of the proposed amendment to the Nuclear Waste Policy Act.

The Department of Energy opposes adoption of such legislation. First, the Nuclear Waste Policy Act of 1982 represents a hard-won compromise achieved after literally years of consideration and debate. It would be premature to amend the Act. Second, we believe the provisions of the Act relating to formal as well as informal consultation and cooperation with the affected States and Indian tribes are working and we see no need for amendment at this time.

Thank you, Mr. Chairman.

I will be happy to attempt to answer any questions you or members of the Committee have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the committee notes that no changes in existing law are made by the bill, S. 2846, as reported.

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FLORIDA WILDERNESS ACT OF 1983

AUGUST 6, 1984.—Ordered to be printed

Mr. BAKER (for Mr. McCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 9]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 9) to designate components of the National Wilderness Preservation System in the State of Florida, having considered the same, reports favorably thereon with amendments to the text, and recommends that the act (as amended) do pass.

The amendments are as follows:

1. On page 3, after line 24, add a new section 2 and renumber subsequent sections accordingly:

“WILDERNESS STUDY AREAS

“SEC. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness. The Secretary shall submit his report and findings to the President, and the President shall submit his recommendation to the Congress of the United States no later than three years from the date of enactment of this Act.

“(1) certain lands in the Apalachicola National Forest, Florida, which comprise approximately six thousand five hundred acres, as generally depicted on a map entitled “Clear Lake Wilderness Study Area”, dated April, 1984, and shall be known as the Clear Lake Wilderness Study Area; and

“(2) certain lands in the Osceola National Forest, Florida which comprise approximately four thousand four hundred acres, as generally depicted on a map entitled “Natural Area Wilderness Study Area”, dated April, 1984, and shall be known as the Natural Area Wilderness Study Area.

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"(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System."

2. On page 6, beginning with line 19, strike all through page 8, line 15, and insert in lieu thereof the following;

"SEC. 6. (a) The Congress finds that—

"(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

"(2) the Congress has made its own review and examination of National Forest System roadless areas in Florida and of the environmental impacts associated with alternative allocations of such areas.

"(b) On the basis of such review, the Congress hereby determines and directs that—

"(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Florida, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Florida;

"(2) with respect to the National Forest System lands in the State of Florida which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands remaining in wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

"(3) areas in the State of Florida reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

"(4) in the event that revised land management plans in the State of Florida are implemented pursuant to section 6 of the Forest and Rangeland Renewable Management Act of 1976,

and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

"(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Florida for the purpose of determining their suitability for inclusion in the National Wilderness Preservation system.

"(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term 'revision' shall not include an 'amendment' to a plan.

"(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Florida which are less than five thousand acres in size."

PURPOSE OF THE MEASURE

The purpose of H.R. 9 as reported, is to add 6 new areas of National Forest land in the State of Florida totaling 47,980 acres, to the National Wilderness Preservation System. It would also add 1,170 acres to an existing wilderness, and would also add 1,170 acres to an existing wilderness, and establish two wilderness study areas, totaling 10,900 acres, which the Secretary of Agriculture shall study for possible wilderness designation and report to Congress within 3 years. The bill also seeks to resolve the RARE II issue in Florida by making those roadless lands not designated as wilderness or wilderness study areas, available for uses other than wilderness without further administrative or judicial review within a certain time frame.

H.R. 9 would ban phosphate leasing in the Osceola National Forest in Florida unless and until the President and the Congress determines otherwise.

SUMMARY OF MAJOR PROVISIONS

Section 1 proposes to designate 7 areas of National Forest System lands, totaling approximately 49,150 acres, as components of the National Wilderness Preservation System.

Section 2 proposes to designate 2 areas of National Forest System land, totaling 10,900 acres, for wilderness study with the Secretary to submit recommendations to Congress within 3 years.

Section 3 contains the standard language of all wilderness bills pertaining to the filing of maps and legal descriptions for the wilderness designated in H.R. 9.

Section 4 contains the standard language of all wilderness bills pertaining to the administration of wilderness areas.

Section 5 bans phosphate leasing in the Osceola National Forest except under certain prescribed conditions and procedures which are enumerated in this section.

Section 6 contains "release-sufficiency" provisions.

Section 7 contains a severability provision.

BACKGROUND AND NEED

H.R. 9 seeks to resolve the Forest Service RARE II wilderness issue in the State of Florida by designating certain National Forest System lands in the State as wilderness and making other lands available for other multiple-use purposes.

Florida has 1,038,979 acres in the National Forest System. Of those acres, 23,432 acres are already in the National Wilderness Preservation System. During the second roadless area review and evaluation (RARE II) the Forest Service identified 128,930 acres in the State as having wilderness potential. The RARE II areas and the recommendations for those areas made by the Carter Administration in the April 1979 Environmental Impact Statement, included 54,630 acres recommended for wilderness classification, 14,861 acres recommended for further planning, and 59,439 acres recommended for uses other than wilderness.

In 1980, a Federal District Court in California found that the RARE II Final Environmental Impact Statement did not meet the requirements of the National Environmental Policy Act. This decision was subsequently upheld by the Ninth Circuit Court of Appeals. While the effect of this decision on other Forest Service regions is unclear, the Forest Service believes that activities on areas inventoried in RARE II could be subject to administrative and judicial review. As a result, there is considerable uncertainty concerning the Forest Service's ability to plan for and manage the National Forests—especially those lands inventoried and studied in the RARE II process.

The wilderness designations in H.R. 9 are identical to those considered during the 97th Congress and passed by both the House and the Senate, but vetoed by the President. In his Memorandum of Disapproval, the President stated his support for the designation of additions to the National Wilderness Preservation System in the State of Florida. However, he expressed objections to the provision in the legislation that would convey the rights to, and value from, pending phosphate lease applications. In the interim period since the veto, the Secretary of the Interior has rejected the pending phosphate lease applications.

H.R. 9, as reported, would add 49,150 acres of National Forest System lands to bring the total area in the National Wilderness Preservation System in the State of Florida to 1,420,929 acres. Of this total, 72,582 acres are National Forest lands and 1,348,347 acres are lands administered by the Department of the Interior.

LEGISLATIVE HISTORY

H.R. 9 passed the House on June 6, 1983. A companion bill (S. 465) was introduced in the Senate on February 3, 1983, by Mr. Chiles (for himself and Mrs. Hawkins). No hearings were held on S. 465 or H.R. 9 in the 98th Congress since a similar bill passed both

the Senate and the House in the 97th Congress but was vetoed by the President.

The Administration supports H.R. 9 as passed by the House if amended.

At a business session on August 1, 1984, the Committee on Energy and Natural Resources ordered H.R. 9, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on August 1, 1984, by unanimous vote of a quorum present recommends that the Senate pass H.R. 9, if amended, as described herein.

COMMITTEE AMENDMENTS

The Committee adopted two amendments to H.R. 9 as passed by the House, as follows:

1. The first amendment directs the Secretary of Agriculture to study two additional areas for their suitability for inclusion into the National Wilderness Preservation System, to report such suitability to Congress within 3 years, and to maintain present wilderness character until Congress determines otherwise.

(a) Clear Creek Wilderness Study Area, consisting of 6,500 acres on the Apalachicola National Forest. The area is 10 miles southwest of downtown Tallahassee. Primary access is provided by State Highway 267. Clear Lake is within 10 miles of Bradwell Bay Wilderness and 25 miles of St. Mark's Wilderness. The topography is gently undulating; altitudes range from a maximum of 117 feet along the western boundary to a low of 75 feet in the southwestern part of the area. The water level is at 88 feet in the collapsed sinkhole forming the Clear Lake basin.

(b) The Natural Area Wilderness Study Area contains approximately 4,400 acres. It is located in the Osceola National Forest, Baker County, Florida, about 30 miles west of downtown Jacksonville and 18 miles northeast of Lake City. Access is provided by State Highway 250 and FS 235. Natural Area is adjacent to the 13,600 acres proposed Big Gum Swamp Wilderness and 20 miles from the 354,000 acre Okefenokee Swamp Wilderness. Natural Area is in the Central Highlands subprovince of the Atlantic Coastal Plain physiographic province (Cooke, 1945). Relief is extremely low with elevations ranging from about 134 feet in the northwest corner of the area to about 122 feet where the Middle Prong of the St. Mary's River flows out of the area. Drainage is poor with swampy conditions existing throughout much of the area during the wet season; this condition persists even in dry periods due to the relatively high water table. The area forms part of the watershed that drains the Middle Prong of the St. Mary's River.

2. The second amendment contains "release-sufficiency" provisions.

"Release/sufficiency" language has been incorporated by the Congress in several State wilderness bills enacted over the past several years. That language statutorily confirmed the April 1979 administrative "release" of certain RARE II nonwilderness recom-

mended lands and released other lands not designated as wilderness or wilderness study. This was commonly referred to as "Colorado release."

The language continued to trouble a number of affected industry groups, and in an effort to address their concerns, the Committee has made clarifications in the statutory language found in section 6. The Committee wishes to further clarify the purpose and intent of the provisions of this section and elaborate on certain issues not specifically discussed in previous bills.

The question of "release" i.e., making lands available for nonwilderness management and possible development arises from the interest in the future management of areas reviewed during the RARE II process. The controversy focuses on the point at which those lands not designated as wilderness or wilderness study by this Act but reviewed in the RARE II process can again be considered for possible recommendation to the Congress for designation as wilderness, and on the question of how these lands will be managed.

The "sufficiency" aspect of this question arose because of a decision in Federal District Court in California. Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Impact Statement insofar as its consideration of wilderness in some 46 areas in the State of California was concerned.

In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in *State of California v. Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act was completed by the Department of Agriculture. The Ninth Circuit Court of Appeals affirmed in District Court opinion in *California v. Block*, 690 F. 2d 653 in 1982.

While the decision applied specifically only to the 46 roadless areas in California for which the plaintiffs sought relief, the overall conclusions in the case are binding in States that are located in the Ninth Circuit. The net effect is that development activities on roadless areas in such States may be held up if appealed in administrative or judicial forums. This has, in fact, already happened in several instances, and has thrown a cloud of uncertainty over the development of some roadless areas, whereas development has occurred in others.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this act, very carefully reviewed the roadless areas in Florida for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Final Environmental Statement insofar as national forest system lands in Florida are concerned is unnecessary. Therefore, the act provides

that the final environmental statement is not subject to judicial review with respect to national forest system lands in Florida.

The Committee does wish to reemphasize that the sufficiency language in this Act only holds the RARE II EIS to be legally sufficient for the roadless areas in the State of Florida and only on the basis of the full review undertaken by the Congress. Similar language will be necessary to resolve the issue in the other States.

Management and future wilderness consideration of roadless areas not designated as wilderness or wilderness study

The RARE II process during 1977-79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976. That process requires that the forest land management plans be reviewed and revised periodically to provide for a variety of uses. During the review and revision process the Forest Service is required to study a broad range of potential uses and options including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is one of the many options which must be considered during the planning process for those lands which may be suited for wilderness. The language of H.R. 9 reconfirms this requirement. The Forest Service is presently developing the initial, or "first generation", plan for each national forest. These are the so-called "section 6" plans, they are targeted for completion by September 30, 1985. For the 3 national forests in Florida some plans may not actually be completed and implemented until 1986 or later due to administrative problems including delay resulting from the cloud of the California lawsuit and the debate taking place as a result of pending legislation.

One of the goals of RARE II was to consider the wilderness potential of national forest roadless areas. The Committee believes that further consideration of wilderness during development of the initial plans for the national forest system roadless areas as defined by section 6, not designated as wilderness upon enactment of H.R. 9 would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress. Therefore, the release language of section 6 provides that wilderness values of these areas need not be reviewed again during development of the "first generation plans." Moreover, the language provides that during development of and prior to or during revision of initial plans, released areas need not be managed for the purpose of protecting their suitability for wilderness designation.

Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are targeted for completion by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR § 219.10(g)). The language of H.R. 9 tracks these regulations.

The Act, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it

revises the initial plans. By using the word "revision" the Committee intends to make it clear, consistent with NFMA and current Forest Service regulations, that amendments or even amendments which might "result in a significant change" in a plan, would not trigger the need for reconsideration of the wilderness option and section 6 so provides. The wilderness option does not need to be reconsidered until the Forest Service determines, based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised.

A revision of a forest plan will be a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. Every effort will be made to address local changes through the amendment process leaving the revision option only for major, forest wide changes in conditions or demands.

For example, if a new powerline were proposed to be built across a forest, this would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be re-examined. Likewise, the construction of new range improvements or adjustments in livestock allotments for permittees would not constitute a "revision". It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest concerned, that a "revision" would occur. For example, the recent eruption of Mt. St. Helens, because it affected so much of the land on the entire Gifford Pinchot National Forest, including the forest's overall timber harvest scenario, would likely have forced a "revision" of the plan. Likewise, decisions to dramatically increase timber harvest levels on an entire forest or to change a multiplicity of uses in order to accommodate greatly increased recreation demands might force a "revision". In this regard, the Committee wishes to note, however, that in the vast majority of cases the 10-15 year planning cycle established by NFMA and the existing regulations is short enough to accommodate most changes. Conditions are highly unlikely to change so dramatically prior to 10-15 years that more frequent "revisions" would be required. For example, it would be hard to envision a scenario under which demands for primitive, semi-primitive or motorized recreation would increase so rapidly over an entire National Forest that the Forest Service would feel obliged to revise a plan prior to the normal 10-15 life span. Recreation demands might increase in a specific area or areas, but such demands could be met by amending the plan, as opposed to revising it.

Forest Service Chief Max Peterson has indicated that, in his view, most plans will be in existence for approximately 10 years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of this anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with first generation plans to be in effect by late 1985, or slightly later, the time of revision for most plans will begin around 1995. In almost every case, the Committee, therefore, expects that the consideration of wilderness for these roadless areas will not be reexamined until approximately 1995. The Committee notes that

administrative or judicial appeals may mean that many first generation plans are not actually implemented until the late 1980's, in which case plan revisions would be unlikely to occur until around the year 2000, or beyond. Or, if the full 15 years allowed by NFMA runs before a revision is undertaken, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a "revision" would be triggered if the Forest Service is forced by the courts to modify or rework an initial plan, or if the Forest Service withdrew an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wishes to state in the most emphatic terms possible, that any reworking of an initial plan for such reasons would obviously not constitute a "revision" of the plan that would reopen the wilderness question. Rather, any such reworking would constitute proper *implementation* of the plan. The logic for the Committee's reasoning in this regard is that any such court ordered or administrative reworkings or modifications of a plan would come about to resolve questions related to the preparation and implementation of the plan in accordance with the requirements of NFMA and other applicable law. So such reworking or modification would not be a "revision" (which pursuant to NFMA and the implementing regulations is to be based on changed conditions or demands on the *land*), because a plan must be properly prepared and implemented before it can be "revised".

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in *de facto* wilderness for a succession of future planning processes. Such a requirement would completely frustrate the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act as amended.

To eliminate any possible misunderstanding on this point, the act provides that areas not designated as wilderness need not be managed for the purpose of protecting their suitability for further wilderness review prior to or pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of section 6 plans is required only for those lands which may be suited for wilderness at the time of the implementation of the future plans. Between the planning cycles, the uses authorized in the plan in effect can proceed until a new plan is implemented. In short, one plan will remain in effect until the second plan is implemented. For lands recommended for nonwilderness uses in future generations of plans there is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness. Thus it is likely that many areas studied for wilderness in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. As an example of this, the Committee notes that many areas studied for wilderness in RARE II

and recommended for nonwilderness have already been developed since their administrative "release" in April of 1979.

Therefore, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once a second-generation plan is implemented in accordance with applicable law including the National Environmental Policy Act, the Forest Service may, of course, manage a roadless area not recommended for wilderness designation according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third-generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation if the particular land in question still possess wilderness attributes. But there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

In short, this language means that the Forest Service cannot be *forced* by any individual or group through a lawsuit, administrative appeal, or otherwise to manage lands not recommended for wilderness designation in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines it appropriate manage lands in an undeveloped manner, just as it can, if through the land management planning process it determines it appropriate, develop released lands. The emphasis here is that the Forest Service will be able to manage released lands in the manner determined appropriate through the land management planning process.

However, the language also provides that lands recommended for wilderness in future generations of plans shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law upon implementation of such plans.

The final issue addressed by the Committee is section 6 of H.R. 9 pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through the planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Florida for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III".

SECTION-BY-SECTION ANALYSIS

Section 1, as ordered reported, would designate 6 new wilderness areas and an addition to an existing wilderness area, totaling 49,150 acres, as components of the National Wilderness Preservation System, as follows:

Bradwell Bay Wilderness addition.—The 1,170-acre addition to the Bradwell Bay Wilderness in the Apalachicola National Forest is RARE II area No. 08308, and is a Congressionally designated wilderness study area. It has been recommended for wilderness designation by the Administration. The area lies along the northeast corner of the existing wilderness and comprises a stretch of the Sopchoppy River and surrounding lands. It is prime area for hiking and canoeing and includes several miles of the proposal 1,300 mile Florida trails. Vegetation includes longleaf pine, slash pine, sweet-boy-tupelo and palmetto.

Mud Swamp/New River Wilderness.—This 7,800-acre proposed wilderness is on the Apalachicola National Forest. It is RARE II area No. 08008. It consists almost entirely of swampland composed of slash pine, cypress, tupelo, blackgum, red maple and a very thick understory of titi. Fringe areas also contain large Atlantic white cedar and palmetto. Field investigations have discovered two endangered species of orchids. The area is prime bear, panther, and alligator habitat and is a remnant of the former 200,000 acre Tate's Hell Swamp which has now been mostly converted to commercial slash pine forest by private paper companies.

The Administration supports designation of Mud Swamp, but opposes the inclusion of the New River arm as it is separated from the main body of the Mud Swamp by an existing road and bridge. The Committee feels that it should be included as the stretch of the river north of the main body of the wilderness is very scenic is bordered by huge cypress and cedars, and affords outstanding opportunities for canoeing and other forms of primitive recreation.

Big Gum Swamp Wilderness.—This 13,600-acre wilderness is in the Osceola National Forest, approximately 50 miles from Jacksonville, Florida. The area has a high potential for primitive recreation and is the primary water source of the Middle Prong of the St. Mary's River. The center of the area is a single large continuous cypress gum swamp with an overstory of large trees which range from 14 to 30 inches in diameter. Fringe areas consist of pine, flatwoods with long-leaf and slash pine and an understory of palmetto, galberry and bay. Wildlife is abundant and the area provides prime habitat for bear, panther, bobcat, alligator, and the red cockaded woodpecker. Due to its relatively large size, the area presents a rather unique opportunity for northeastern Florida to preserve a large tract in its wilderness state in an area in which none now exists.

Applications are pending for preference right leases to mine phosphate on about one quarter ($\frac{1}{4}$) of this proposed wilderness. The lease applications have been denied by the Secretary of the Interior, and the matter is pending in the courts. The phosphate leasing issue is discussed in more detail in the analysis of section 5.

Alexander Springs Wilderness.—This wilderness proposal contains 7,700 acres on the Ocala National Forest, and consists of a

portion of RARE II roadless area 08011. This proposal is identical to that of the Administration. This subtropical area contains vast swamps of palm, red maple, tupelo, cypress and scattered longleaf and sandpine stands. The crystal clear creek that bisects the area originates at Alexander Springs, a major Florida spring with a flow of 76 million gallons per day. The creek is extremely clear, lined with spectacular palm and other vegetation, and is very popular for canoeing and other forms of compatible primitive recreation. Eagle and osprey nests occur throughout the area, and many significant archeological sites lie along the banks of the creek. The wilderness also contains several scenic lakes and ponds and habitat for the endangered Florida manatee. Wildlife includes deer, bear, alligators, a variety of small birds and mammals including wading birds. Directly across the St. John's River, which forms the eastern boundary, is the 76,416-acre Woodruff National Wildlife Refuge. The two sections of the 1,007-acre Woodruff Wilderness lie adjacent to the river and are contiguous to this area. About 5 miles of the Ocala National Recreation Trail, a section of the Florida Trail within the area, is currently being studied for possible National Scenic Trail designation. Extensive boardwalks are contained in this portion. Primary access is via Alexander Springs Creek. Water hyacinths add to the beauty of the stream but sometimes form extensive rafts which inhibit passage.

The stretch of Alexander Springs Creek which lies within the wilderness is currently used by motorboats for access to the private lands and homes located immediately to the south of and adjacent to the proposed wilderness. The Committee notes that this form of transportation provides the most common ingress and egress to these homes and intends that access should be allowed to continue, subject to reasonable restrictions by the Secretary of Agriculture.

Juniper Prairie Wilderness.—This 13,260-acre wilderness proposal is located in the Ocala National Forest. It contains all of RARE II roadless area L8039 except a 340 Forest Service administrative site. The area has been recommended for wilderness designation by the Administration. The prairie contains shallow lakes rimmed by oaks, pond pine and slash pine. Surrounding these lies a massive area of sand pine. Palm trees, sawgrass, and dense vegetation plus a heavy bird population create a wide subtropical atmosphere along Juniper Creek which transects the area. Juniper Creek provides one of the primary transportation corridors. Deer, alligators, egrets, herons and other birds are common. Access is normally from the adjacent Juniper Springs Recreation Area. The Ocala National Recreation Trail, a section of the Florida Trail, bisects the area. It is currently being studied for possible National Scenic Trail designation.

Little Lake George Wilderness.—This Wilderness proposal consists of 2,500 acres of RARE II area 08109 on the Ocala National Forest. The area is located at the confluence of the Oklawaha and St. John's Rivers on the banks of Little George. It is a subtropical hardwood swamp consisting mainly of cypress, ash, cabbage palm, red maple, bog and smilax. Adjoining the swamp on the west are nearly level, poorly drained flatwoods forested by pond pine, slash pine and loblolly pine. The area is prime habitat for the endangered Southern Bald Eagle and contains one active nest. Wildlife

includes deer, bear, numerous smaller animals and a wide variety of birds. Mineral rights are reserved in perpetuity on 80 acres.

Billies Bay Wilderness.—The 3,120-acre wilderness proposal is identical to that of the administration and consists of a vast swamp of palm, red maple, tupelo, cypress and scattered longleaf and sand pine stands. The area is in the Ocala National Forest adjacent to the Alexander Springs recreation area and is traversed by the Florida Trail. Wildlife is abundant, with major species including alligator, panther, deer, bear, and a great variety of birds. Its addition to the Wilderness System will preserve the pristine swamp in its natural state and enhance the scenic and recreational values of the adjacent recreation area.

Section 2 proposes to designate two areas of National Forest System lands in Florida, totaling 10,900 acres for wilderness study. The Secretary of Agriculture is to complete the study and send his recommendations to Congress within 3 years. Until Congress determines otherwise, the areas are to be managed to maintain their existing wilderness character.

Section 3 contains standard provisions requiring the filing of maps and legal descriptions of the areas proposed for wilderness designation in this bill.

Section 4 contains standard provision relating to administration of the proposed wilderness areas.

Section 5 bans phosphate leasing of certain areas of the Osceola National Forest unless and until the President determines that a national need for phosphate exists, recommends to Congress that leases be issued, and Congress in turn enacts a joint resolution of approval.

The phosphate issue arose from provisions of the Mineral Leasing Act of 1920 which authorize the Secretary of the Interior to issue exclusive 2-year prospecting permits to qualified applicants where prospecting or exploratory work is necessary to determine the existence or workability of phosphate deposits, and to renew such permits under certain circumstances. If the prospecting permittee discovers "valuable deposits of phosphate" within the permitted area, the law states that the permittee is "entitled" to a lease on all or part of the lands covered by the permit. Pursuant to these provisions the Secretary issued 42 prospecting permits, covering about 144,000 acres of the total 157,000 acres of the Osceola National Forest, between 1965 and 1968. Based on the prospecting work, during the period from July 1969 through May 1972, 41 applications for preference-right phosphate leases, covering about 52,000 acres of the permitted land (or some 33 percent of the entire Osceola National Forest), were filed by four companies.

The Secretary of the Interior denied these applications on January 14, 1983. As of the date of this report, two of the lease applicants have challenged the Secretary's denial in court and the other applicants may follow suit.

The Committee does not intend to prejudice the outcome of any pending litigation by this legislation.

Section 6 contains the "release/sufficiency" provisions for those National Forest RARE II lands in Florida that are not designated wilderness, wilderness study or remaining in further planning.

Section 7 specifies that invalidation of any part of H.R. 9 will not affect any other part.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not intend that this measure (H.R. 9) authorize any additional budget authority for fiscal year 1984 than that already available to the Department of the Interior and the Department of Agriculture. The Committee intends that if any fiscal year 1984 costs are incurred from implementation of the bill that they will be absorbed within funds otherwise available to the Department of the Interior and the Department of Agriculture.

The likelihood that the Committee on Energy and Natural Resources would report the measure, H.R. 9, was reflected in its March 15, 1984 report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization.

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 3, 1984.

HON. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 9, a bill to designate components of the National Wilderness Preservation System in the State of Florida, as ordered reported by the Senate Committee on Energy and Natural Resources, August 1, 1984.

H.R. 9 designates as wilderness 49,150 acres of national forest land in the State of Florida and prohibits phosphate leasing in the Osceola National Forest (unless the President determines that there is a severe national need for phosphates). It is estimated that additional costs to the federal government related to surveying and planning as a result of the wilderness designations will be approximately \$500,000 over the five fiscal years beginning with 1985, based on information from the National Forest Service. The provisions relating to the prohibition of mining in the Osceola National Forest are not expected to result in additional expenditures by the federal government because the Secretary of the Interior has determined that the holders of lease applications are not entitled to phosphate leases under the provisions of the Mineral Leasing Act of 1920. If this determination is not upheld by the courts, the federal government could be responsible for compensation to lease applicants.

The bill also directs the Secretary of Agriculture to review 10,900 acres of land for possible inclusion in the National Wilderness Preservation System. Based on information from the National Forest System, these studies are expected to cost the federal government approximately \$150,000 over the fiscal years 1985 through 1987.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by an act of the Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. H.R. 9 removes from this review all roadless areas in Florida included in the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II), for the period of the initial forest plans (10-15 years). This will result in a reduction in land management planning costs over this time. However, no estimate of the budget impact of this provision can be made based on currently available information.

Enactment of this bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 9 as reported. H.R. 9 would designate certain National Forest System lands in the State of Florida for inclusion in the National Wilderness Preservation System, would release other forest lands for multiple-use management, and for other purposes.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and business.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy. Little if any additional paperwork would result from the enactment of H.R. 9.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to H.R. 9 are set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, March 6, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our report on H.R. 9, a bill "To designate components of the National Wilderness Preservation System in the State of Florida."

The Department of Agriculture supports enactment of H.R. 9, as amended by the House of Representatives, if amended to delete the New River addition.

H.R. 9 would designate six new wildernesses in the National Forests in Florida totaling 47,980 acres, and add 1,170 acres to one ex-

isting wilderness. Section 4 of the bill would generally prohibit phosphate leasing on the Osceola National Forest.

The wilderness designations in H.R. 9 are identical to those in the bill disapproved by the President on January 14, 1983. In his memorandum of disapproval, the President stated his support for the designation of additions to the National Wilderness Preservation System in the State of Florida. However, he expressed objections to the provisions of section 4.

The House amended H.R. 9 by adding section 5 which includes release and sufficiency language, and by amending section 4 to exclude provisions which attempt to convey property rights and provide for the exchange and purchase of minerals. With these amendments, the Administration supports enactment of H.R. 9.

We support the wilderness proposed in the bill except we recommend deleting the New River portion of the proposed Mud Swamp/New River Wilderness. The proposed Mud Swamp/New River Wilderness would encompass essentially the same area as considered during RARE II except that it includes a 2½-mile narrow strip along the New River at the northwest corner of the area. We recommend that this small strip be excluded from the proposal because it is separated from the area by a frequently used forest road and concrete bridge. Furthermore, the 2½-mile long, ½ mile wide strip along the New River would be difficult to manage for wilderness purposes because of its elongated shape and lack of on-the-ground boundary features. The Mud Swamp area without the New River addition would be a suitable addition to the Wilderness System and includes extensive swamp and forest habitat for a variety of wildlife, including alligator and Florida panthers (cougars). We would also prefer that the release language of the bill provide permanent or more long-term stability for the lands not designated as wilderness.

It is estimated that surveying, planning, and related activities necessary to implement these seven wilderness designations will cost approximately \$140,000 annually over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the act, H.R. 9, as reported.

UTAH WILDERNESS ACT OF 1984

AUGUST 6, 1984.—Ordered to be printed

Mr. BAKER (for Mr. McCLORE), from the Committee of Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 2155]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2155) to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, and for other purposes, having considered the same, reports favorably thereon with an amendment to the text and recommends that the bill (as amended) do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Utah Wilderness Act of 1984".

TITLE I—FINDINGS, PURPOSES, AND WILDERNESS DESIGNATION

SEC. 101. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Utah possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system in Utah have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Utah have also identified those areas which do not possess out-

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standing wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process, other applicable laws and the provisions of the Act.

(b) The purposes of this Act are to:

(1) designate certain national forest system lands in Utah as components of the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people; and

(2) insure that certain other national forest system lands in the State of Utah be available for nonwilderness multiple uses.

SEC. 102. (a) In furtherance of the purpose of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Utah are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Wasatch-Cache National Forest which comprise approximately forty-four thousand three hundred and fifty acres, as generally depicted on a map entitled, "Mt. Naomi Wilderness—Proposed", dated June, 1984, and which shall be known as the Mount Naomi Wilderness;

(2) certain lands in the Wasatch-Cache National Forest which comprise approximately twenty-three thousand eight hundred and fifty acres as generally depicted on a map entitled "Wellsville Mountain Wilderness—Proposed", dated November, 1983, and which shall be known as the Wellsville Mountain Wilderness;

(3) certain lands in the Wasatch-Cache National Forest which comprise approximately sixteen thousand four hundred and fifty acres generally depicted on a map entitled "Mt. Olympus Wilderness—Proposed", dated November, 1983, and which shall be known as the Mount Olympus Wilderness;

(4) certain lands in the Wasatch-Cache National Forest which comprise approximately thirteen thousand one hundred acres as generally depicted on a map entitled "Twin Peaks Wilderness—Proposed", dated June, 1984, and which shall be known as the Twin Peaks Wilderness;

(5) certain lands in the Wasatch-Cache and Ashley National Forests which comprise approximately four hundred and sixty thousand acres as generally depicted on a map entitled "High Uintas Wilderness—Proposed", dated June, 1984, and which shall be known as the High Uintas Wilderness;

(6) certain lands in the Uinta National Forest which comprise approximately ten thousand seven hundred and fifty acres as generally depicted on a map entitled "Mt. Timpanogos Wilderness—Proposed", dated November, 1983, and which shall be known as the Mount Timpanogos Wilderness;

(7) certain lands in the Uinta National Forest which comprise approximately twenty-eight thousand acres as generally depicted on a map entitled "Mt. Nebo Wilderness—Proposed", dated June, 1984, and which shall be known as the Mount Nebo Wilderness;

(8) certain lands in the Manti-LaSal National Forest which comprise approximately forty-five thousand acres as generally depicted on a map entitled "Dark Canyon Wilderness—Proposed", dated November, 1983, and which shall be known as the Dark Canyon Wilderness;

(9) certain lands in the Dixie National Forest which comprise approximately seven thousand acres as generally depicted on a map entitled "Ashdown Gorge Wilderness—Proposed", dated November, 1983, and which shall be known as the Ashdown Gorge Wilderness;

(10) certain lands in the Dixie National Forest which comprise approximately twenty-six thousand acres as generally depicted on a map entitled "Box-Death Hollow Wilderness—Proposed", dated June 1984, and which shall be known as the Box-Death Hollow Wilderness;

(11) certain lands in the Dixie National Forest which comprise approximately fifty thousand acres as generally depicted on a map entitled "Pine Valley Mountain Wilderness—Proposed", dated June, 1984, and which shall be known as the Pine Valley Mountain Wilderness; and

(12) certain lands in the Wasatch National Forest which comprise approximately twenty-five thousand five hundred acres, as generally depicted on a map entitled "Deseret Peak Wilderness—Proposed", dated June, 1984, and which shall be known as the Deseret Peak Wilderness.

(b) The previous classifications are hereby abolished: the Mount Timpanogos Scenic Area and the High Uintas Primitive Area.

Sec. 103. (a) As soon as practicable after the enactment of this Act, the Secretary of Agriculture shall file the maps referred to in this Act and a legal description of each wilderness area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

TITLE II—RELEASE OF LANDS FOR NONWILDERNESS USES

Sec. 201. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) the Congress has made its own review and examination of national forest system roadless areas in Utah and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Utah, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Utah;

(2) with respect to the national forest system lands in the State of Utah which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) areas in the State of Utah reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976; *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plan;

(4) in the event that revised land management plans in the State of Utah are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of na-

tional forest system lands in the State of Utah for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) those national forest system roadless areas in the State of Utah which were evaluated in any unit plan or which are being managed pursuant to a multiple use plan; and

(2) national forest system roadless lands in the State of Utah which are less than 5,000 acres in size.

TITLE III—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 301. (a) Grazing of livestock in wilderness areas established by this Act, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(c)(4) of the Wilderness Act and section 108 of Public Law 96-560.

(b) The Secretary is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest system wilderness areas in Utah in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) Not later than one year after the date of the enactment of this Act, and at least every five years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report detailing the progress made by the Forest Service in carrying out the provisions of paragraphs (a) and (b) of this section.

STATE WATER ALLOCATION AUTHORITY

SEC. 302. (a) As provided in section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to the exemption from Utah water laws.

(b) Within the Mount Naomi, Wellsville Mountain, Mount Olympus, Twin Peaks, High Uintas, Mount Nebo, Pine Valley Mountain, Deseret Peak, and Ashdown Gorge Wilderness areas as designated by this Act, the Forest Service is directed to utilize whatever sanitary facilities are necessary, including, but not limited to vault toilets which may require service by helicopter, to insure the continued health and safety of the communities serviced by the watersheds in such wilderness areas in the State of Utah; furthermore, nothing in this Act shall be construed to limit motorized access and road maintenance by local municipalities for those minimum maintenance activities necessary to guarantee the continued viability of whatever watershed facilities currently exist or which may be necessary in the future to prevent the degradation of the water supply in such wilderness areas within the State of Utah, subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

(c) As provided in section 4(d)(8) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to wildlife and fish in the national forests in Utah.

PROHIBITION ON BUFFER ZONES

SEC. 303. Congress does not intend that designation of wilderness areas in the State of Utah lead to the creation of protective perimeters or buffer zones around any wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINERAL RESOURCES

SEC. 304. In furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to make assessments of the mineral potential of national forest wilderness areas in the State of Utah, on a re-

curing basis, consistent with the concept of wilderness preservation, in order to expand the data base with respect to the mineral potential of such lands.

SEC. 305. Within the Mount Naomi, Wellsville Mountain, Mount Olympus, Mount Nebo, Twin Peaks, High Uintas, Pine Valley Mountain and Deseret Peak Wilderness areas as designated by this Act the provisions of the Wilderness Act shall not be construed to prevent the installation and maintenance of hydrologic, meteorologic, climatological, or telecommunications facilities, or any combination of the foregoing, or limited motorized access to such facilities when nonmotorized access means are not reasonably available or when time is of the essence, subject to such conditions as the Secretary of Agriculture and the Secretary of the Interior deem desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

SEC. 306. (a) Certain lands adjacent to the Box-Death Hollow Wilderness as designated in section 102 of this Act, and generally depicted as the "Antone Bench Area" and areas 2, 3, 4, and 5 on a map entitled "Box-Death Hollow Wilderness—Proposed", dated June, 1984, shall, subject to valid existing rights and until Congress determines otherwise, be managed in accordance with the following provisions:

(1) all lands within the areas are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto, except that the Secretary of the Interior is hereby authorized to issue competitive leases for carbon dioxide within the areas for a period of five years from the date of enactment of this Act;

(2) a lease issued for carbon dioxide in the area shall be for a period of 10 years and for so long thereafter as carbon dioxide is produced annually in commercial quantities from that lease: *Provided*, That an area covered by a lease shall be withdrawn from further carbon dioxide leasing or lease extension in the event production in commercial quantities from the lease is not occurring within 10 years of the date of issuance of the lease; and

(3) exploration in the Antone Bench area shall be permitted only by helicopter or other methods which do not involve road construction or other significant surface disturbance.

(b) In the event development of a lease within the Antone Bench area is proposed, the following provisions shall apply:

(1) road construction shall be limited to the minimum standards necessary for proper development of the carbon dioxide resource consistent with safety requirements;

(2) roads, pipelines, electric lines, buildings, compressor stations and other facilities shall, to the maximum extent practicable consistent with economic extraction of the carbon dioxide resource, be camouflaged, constructed and located in a manner that will minimize visual, noise or other intrusions in the area and in the surrounding wilderness area;

(3) fill material, gravel and other material used for road and facility construction shall be obtained from outside the wilderness area;

(4) road or facility construction shall be limited, to the maximum extent practicable, to seasons or periods where there will be minimum impacts on recreation or wildlife uses;

(5) roads shall be used only in conjunction with carbon dioxide development operations and shall be closed to all other vehicular use, but shall be open for foot or horse travel;

(6) all roads or other facilities within the area shall, when no longer needed for carbon dioxide production, be removed and reclaimed to a condition of being substantially unnoticeable;

(7) all waste, debris or other by-products associated with road construction, carbon dioxide production, or other development activities shall be disposed of outside the Antone Bench area and the Box-Death Hollow Wilderness; and

(8) consistent with State and Federal law no activities shall be allowed within the area which could significantly impair water quality or quantity in the Box-Death Hollow Wilderness and adjacent wilderness or wilderness study areas.

PURPOSE

S. 2155 as reported would designate certain National Forest System lands in Utah as components of the National Wilderness Preservation System, and would insure that other National Forest

System lands in Utah are available for nonwilderness multiple uses.

Specifically, S. 2155 as reported would:

Designate approximately 750,000 acres of National Forest land in 12 separate areas as for inclusion in the National Wilderness Preservation System;

Make approximately 3 million acres of National Forest RARE II lands not designated as wilderness by this Act, available for uses other than wilderness;

Provide for continuation of livestock grazing in wilderness areas in accordance with the Wilderness Act and section 108 of Public Law 96-560;

Provide for a savings clause with regard to Utah water law;

Provide for the assessment of mineral potential in wilderness areas in Utah;

Provide for the limited use of motor vehicles under specified circumstances; and

Provide for special management of certain lands adjacent to the Box-Death Hollow Wilderness for possible carbon dioxide removal.

BACKGROUND

During the second Roadless Area Review and Evaluation (RARE II), the Forest Service identified approximately 3 million acres of National Forest land in the State of Utah as having wilderness potential. In the Final Environmental Statement, filed on April 15, 1979, 457,017 acres were recommended for wilderness, 141,886 acres for further planning and approximately 2,402,472 acres were allocated to uses other than wilderness. It should be noted that the 240,717 acre High Uintas Primitive Area was not included in RARE II as it had previously been recommended for wilderness classification.

Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the Statement insofar as its consideration of wilderness in more than 40 areas in the State of California was concerned. In January 1980, Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in the *State of California v. Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture.

The Ninth Circuit Court of Appeals issued a decision October 22, 1982, on the RARE II California suit, *California v. Block*. The decision generally upheld the district court's view that the Forest Service RARE II Final Environmental Impact Statement (EIS) was inadequate as to the challenged areas.

While this court decision affected only the State of California, the litigation has caused considerable uncertainty concerning the Forest Service's ability to plan for and manage the national forests

in other States—especially those lands inventoried and studied in the RARE II process. Passage of this legislation would help resolve these issues in Utah.

LEGISLATIVE HISTORY

S. 2155 was introduced by Mr. Garn, for himself and Mr. Hatch, on November 10, 1983. A hearing was held before the Subcommittee on Public Lands and Reserved Water on February 9, 1984. The Administration supports the measure if amended.

At a business meeting on August 1, 1984, the Senate Committee on Energy and Natural Resources ordered S. 2155, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on August 1, 1984, by unanimous vote of a quorum present, recommends that the Senate pass S. 2155, if amended, as described herein.

COMMITTEE AMENDMENTS

The Committee amended S. 2155, as introduced, with an amendment in the nature of a substitute.

S. 2155 as introduced designated a total of approximately 710,000 acres as wilderness in 11 areas of the National Forest System in the State of Utah. S. 2155 as reported designates a total of approximately 750,000 acres as wilderness in 12 areas of the National Forest System in the State of Utah.

SHORT TITLE, FINDINGS AND PURPOSES

The substitute made no changes to the short title, findings or purposes section.

DESIGNATION OF CERTAIN NATIONAL FOREST SYSTEM LANDS AS WILDERNESS

The substitute designates the following areas as wilderness and as components of the National Wilderness Preservation System.

Mt. Naomi Wilderness

S. 2155 as ordered reported designates 44,350 acres in the Wasatch-Cache National Forest as the Mt. Naomi Wilderness. The area contains rugged canyons and high alpine-subalpine terrain. The area is very steep throughout, however, portions of the Eastern Basin provide excellent cross-country skiing. Mt. Naomi, the highest peak in the wilderness rises to 9,980 feet. Wildlife species include elk and moose.

The Mt. Naomi watershed supplies culinary and agricultural water for the Cache Valley area. The Green Canyon/Water Canyon areas (not included in the Mt. Naomi Wilderness) act as the primary watershed for North Logan City and require watershed resource development. The Mt. Naomi Wilderness surrounds this area.

Wellsville Mountain Wilderness

S. 2155 as ordered reported designates 23,850 acres in the Wasatch-Cache National Forest. The Wellsville Mountains rise up to 5,000 feet above the valley floors of adjacent Cache and Box Elder Counties in northern Utah. This is a steep subalpine mountain range dotted with small basins filled with Douglas-fir and aspen. The area is important habitat for mule deer, cougar and the rare bighorn sheep. The most concentrated migration of birds of prey known to occur anywhere in the West is found along the Wellsville Ridge each autumn. Trails provide access for many recreationists who enjoy hiking in this rugged range. The Wellsville Mountains serve as a watershed for many small communities in Box Elder and Cache Counties.

Mt. Olympus Wilderness

S. 2155 as ordered reported designates approximately 16,450 acres in the Wasatch-Cache National Forest. This rugged mountain region is only a few minutes travel time from Salt Lake City. The area is dominated by Mt. Olympus, Gobblers Knob and Mt. Raymond, all above 10,000 feet. The vegetation is a unique complex of Douglas-fir and mountain mahogany. The large basins at the base of Gobblers Knob, Mt. Raymond and the east side of Mt. Olympus provide tremendous wildlife habitat near a large population center. Wildlife species include elk, eagles, mule deer and mountain goats. The importance of wilderness designation is its valuable watershed for the Salt Lake Valley. The area is also a primary recreation area providing hiking and wintertime ski touring opportunities.

The Committee notes that areas north of Mt. Raymond, Gobblers Knob areas and within the Alexander Basin, are under permit for helicopter skiing and were not designated as wilderness in order that helicopter skiing in those areas be allowed to continue subject to existing law and rules and regulations. Regular helicopter overflights in the wilderness is anticipated and shall be deemed consistent with management of this wilderness. Avalanche control shall continue in accordance with Forest Service guidelines to protect the public safety. The Committee expects the Gobblers Knob and Alexander Basin areas to be managed to protect their watershed characteristics.

Twin Peaks Wilderness

S. 2155 as ordered reported designates 13,100 acres in the Wasatch-Cache National Forest as the Twin Peaks Wilderness. This region represents the classic alpine setting of the Wasatch Mountains. It is dominated by Superior Peak, Sundial Peak, Twin Peaks, and Dromedary Peak, all over 11,000 feet. Scattered forests of Douglas-fir and spruce and subalpine fir dot the high glacial basins. These granite peaks in the Wasatch Range are renowned for their climbing. Eld and mountain goats inhabit the upper basins and forested slopes. Pikas and marmots are found on the high talus slopes. Three small mountain lakes provide trout fishing and a recreational setting unmatched so close to an urban area. Trailheads are within 15 miles of Salt Lake City.

Twin Peaks is a critical Salt Lake Valley watershed. The Mineral Fork area bordering the northeast portion of the wilderness is under permit for helicopter skiing. Regular helicopter overflights of the wilderness shall be deemed consistent with management of the area. Avalanche control may continue in accordance with Forest Service guidelines in order to protect the public safety. The Committee expects the Mineral Fork area to be managed to protect its watershed characteristics. The Committee notes that the wilderness boundary is 600 horizontal feet north of the Little Cottonwood Canyon Road in order to allow special avalanche control and improvements to the road.

High Uintas Wilderness

S. 2155 as ordered reported designates 460,000 acres in the Wasatch-Cache and Ashley National Forests. As the only East-West trending range in the contiguous United States, this wilderness is 60 miles in length (east-west) and 30 miles from top to bottom (north-south). Within the area are numerous rugged mountain peaks above 13,000 feet including Utah's highest peak, Kings Peak at 13,528 feet. The Uinta Range is one of the major water sources for the Colorado River System and the major water producer for Utah. The area provides habitat for elk, moose, cougar, black bear, bighorn sheep, lynx, pine martin, wolverine, golden eagles, osprey, and numerous other forms of wildlife. Spruce forests, bogs, wet and dry meadows, lodgepole pines are all components of this wilderness.

The High Uintas Wilderness offer the classic backcountry recreational experience as well as unparalleled scientific study opportunities concerning vegetation succession, fire studies, recreational impact studies and wildlife investigations. The High Uintas contains diverse wilderness values and a significant biological diversity. The Committee notes the north slope of the High Uintas outside the wilderness boundaries contains substantial quantities of commercial timber, which are expected to be harvested in accordance with existing law including multiple-use sustained yield practices.

The Committee also notes that the southern flank of the Rocky Mountain overthrust belt extends into the north slope region. The geologic feature may contain substantial oil and gas deposits. The Committee anticipates substantial exploration and possible development of those resources north of the wilderness boundary consistent with the National Environmental Policy Act, and other applicable law.

Mt. Nebo Wilderness

S. 2155 as ordered reported designates 28,000 acres in the Uinta National Forest in two sections as the Mt. Nebo Wilderness. A corridor dividing the two sections of the wilderness provides access to the Privateer Mine. The boundaries were drawn to exclude a possible reservoir site at Sullivan Canyon. Mt. Nebo is the highest mountain in the Wasatch Range, with the mona Summit being the highest point on the knife-like Nebo ridge. Elevations in the proposed wilderness range to 12,000 feet. It provides habitat for a thriving bighorn sheep population and other wildlife. Mt. Nebo is a primary watershed for Jaub and Utah Counties. The area is heavi-

ly used backcountry terrain. Hikers, horseback riders, backpackers and hunters are common visitors to this wilderness.

Mt. Timpanogos Wilderness

S. 2155 as ordered reported designates 10,750 acres in the Uinta National Forest at the Mt. Timpanogos Wilderness. Mt. Timpanogos rises to nearly 12,000 feet, the second highest mountain in the Wasatch Range. It is a large mountain massif. The region contains massive peaks and buttresses. Numerous waterfalls are a result of glaciation which also created several hanging valleys. Today, a remnant of the ice age is tucked between the highest peaks. This glacier/snowfield is a popular destination as is the summit itself. Beautiful Emerald Lake sits at the base of the snowfield. Vegetation ranges from hardy alpine plants to wildflowers, spruce and fir. Wildlife species include cougar, and the sensitive Rocky Mountain bighorn sheep and mountain goat. Timpanogos is an important watershed for Utah County.

Dark Canyon Wilderness

S. 2155 as ordered reported designates 45,000 acres in the Manti-LaSal National Forest as the Dark Canyon Wilderness. Dark Canyon represents the first major Colorado Plateau Canyon terrain to be added to the National Forest Wilderness System. This diverse canyon country contains arches, springs, seeps and hanging gardens. Life zones range from ponderosa pine and aspen-covered high country to desert vegetation in the bottom of Dark Canyon at the national forest boundary. High red rock canyons dwarf visitors with terraced castle-like walls towering 3,000 feet above the canyon floors. Wildlife species are diverse and include mule deer, some cougar and desert bighorn sheep. The area is also rich with archaeological treasures, graineries, pottery and ruins are abundant. The Peavine Canyon Road was excluded from wilderness designation and is used for vehicular access to the area.

Ashdown Gorge Wilderness

S. 2155 as ordered reported designates 7,000 acres in the Dixie National Forest as the Ashdown Gorge Wilderness. The area is contiguous to Cedar Breaks National Monument and harbors two perennial streams, Ashdown Creek and Rattlesnake Creek. It is a land of sheer canyons, pink and red spires and steep cliffs. It is a land of the most spectacular extension of the geologically unique amphitheatre of Cedar Breaks. Vegetation consists of aspen, Douglas-fir, ponderosa pine and some Englemann spruce. The elevations range from 8,500 feet to about 10,000 feet making it a high subalpine region.

Box-Death Hollow Wilderness

S. 2155 as ordered reported designates 26,000 acres in the Dixie National Forest at the Box-Death Hollow Wilderness. This proposed wilderness encompasses the high desert and upper canyon reaches of the famed Escalante River. The natural values of this higher elevation canyon country are numerous. Vegetation includes ponderosa pine, Douglas-fir and a variety of desert canyon flora. Many canyons are nearly inaccessible with deep pools of

water and large drops. Red rock canyon walls tower several hundred feet above the canyon bottoms. The tributaries of the Escalante River in this area run cold and clear, a rarity in the desert, and harbor native fisheries. The Box portion of the unit is a narrow canyon with 1,500-foot canyon walls. This "one-way" canyon has only one entrance and exit. Death Hollow is a massive canyon system with several large tributary canyons. This rugged country is home to mountain lion and desert bighorn sheep. Elk use some of this country as winter range. This is unique canyon country and provides a diverse wilderness experience.

This area may have great natural resource potential. Potentially, large quantities of carbon dioxide gas have been discovered under the wilderness area which, if developed, could provide a significant economic benefit to the depressed economy of Garfield County.

The Committee notes that several upper benches within the area have been designated nonwilderness for the express purpose that the carbon dioxide resources in the area may be explored and commercially developed. Because of the unique characteristics of this area, section 306 of this Act contains special stipulations to foster development of the carbon dioxide resource.

Pine Valley Mountain Wilderness

S. 2155 as ordered reported designates 50,000 acres in the Dixie National Forest as the Pine Valley Mountain Wilderness. This is a geographically isolated mountain range rising 6,000 feet above the Colorado Plateau and the Great Basin. The range straddles the great geographical provinces of the Colorado Plateau, the Great Basin and the northern tip of the Sonoran. It is a diverse land of steep conifer covered mountain slopes, small open meadows along the top of the range and harsh exposed cliffs. This diversity makes it a unique wildlife habitat for sensitive species such as the Abert squirrel, wild turkey, Uinta chipmunk and yellow-bellied marmot. It is a major mule deer range and thus provides probably the strongest and healthiest population of mountain lion in Utah. The secretive mountain lion depends upon the isolation of this range. The rare peregrine falcon shares the cliffs with the mountain lion.

Vegetation on the range follows the elevation. The exposed volcanic slopes contain yucca, oak brush and mahogany while the high slopes, over 10,000 feet in elevation, host Englemann spruce, ponderosa pine, aspen, limber pine and even young thriving bristlecone pine forests. The small meadows and high peaks provide native fisheries and a critical watershed for southwestern Utah. It is a true subalpine mountain range—a desert oasis. It is one of the largest volcanic ranges in the Western United States. The Pine Valley Range acts as the primary watershed for St. George and other small towns in Washington County.

Deseret Peak Wilderness

S. 2155 as ordered reported designates 25,000 acres in the Wasatch-Cache National Forest as the Deseret Peak Wilderness. The area represents the first Great Basin mountain range additions to the National Wilderness Preservation System. It is dominated by 11,000 foot Deseret Peak and is the primary watershed for Tooele County, Utah. It offers habitat for mule deer, mountain lions,

golden eagles and is a natural trout fishery. Vegetation consists of Douglas-fir, spruce and aspen trees.

MAPS, LEGAL DESCRIPTIONS, AND WILDERNESS MANAGEMENT

The substitute amendment includes the same provisions relative to the filing of maps, legal descriptions and management of the areas as S. 2155 as introduced.

RELEASE/SUFFICIENCY LANGUAGE

The substitute amendment includes different release/sufficiency language than that contained in S. 2155 as introduced.

"Release/sufficiency" language has been incorporated by the Congress in several State wilderness bills enacted over the past several years. That language statutorily confirmed the April 1979 administrative "release" of certain RARE II nonwilderness recommended lands and released other lands not designated as wilderness or wilderness study. This was commonly referred to as "Colorado release".

The language continued to trouble a number of affected industry groups, and in an effort to address their concerns, the Committee has made clarifications in the statutory language found in section 201 of S. 2155, as introduced. The Committee wishes to further clarify the purpose and intent of the provisions of this section and elaborate on certain issues not specifically discussed in previous bills.

The question of "release", i.e., making lands available for nonwilderness management and possible development, arises from the interest in the future management of areas reviewed during the RARE II process. The controversy focuses on the point at which those lands not designated as wilderness by this Act but reviewed in the RARE II process can again be considered for possible recommendation to the Congress for designation as wilderness, and on the questions of how these lands will be managed.

The "sufficiency" aspect of this question arose because of a decision in Federal District Court in California. Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Impact Statement insofar as its consideration of wilderness in some 46 areas in the State of California was concerned.

In January 1980, Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in *State of California v. Bergland*, 483 F. Supp. 465 (1980), held that the RARE II Final Environmental Impact Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act was completed by the Department of Agriculture. The Ninth Circuit Court of Appeals affirmed this District Court opinion in *California v. Block* 690 F.2d 653 in 1982.

While the decision applied specifically only to the 46 roadless areas in California for which the plaintiffs sought relief, the overall

conclusions in the case are binding in States that are located in the Ninth Circuit. The net effect is that development activities on roadless areas in such States may be held up if appealed in administrative or judicial forums. This has, in fact, already happened in several instances, and has thrown a cloud of uncertainty over the development of some roadless areas, whereas development has occurred in others.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in Utah for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Final Environmental Impact Statement insofar as national forest system lands in Utah are concerned is unnecessary. Therefore, the bill provides that the final environmental statement is not subject to judicial review with respect to national forest system lands in Utah.

The Committee does wish to reemphasized that the sufficiency language in this Act only holds the RARE II EIS to be legally sufficient for the roadless areas in the State of Utah and only on the basis of the full review undertaken by the Congress. Similar language will be necessary to resolve the issue in the other States.

The RARE II process during 1977-79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act of 1976 (NFMA). That process requires that the forest land management plans be reviewed and revised periodically to provide for a variety of uses. During the review and revision process the Forest Service is required to study a broad range of potential uses and options including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System is one of the many options which must be considered during the planning process for those lands which may be suited for wilderness. The language of S. 2155 reconfirms this requirement. The Forest Service is presently developing the initial, or "first generation", plans for each national forest. These are the so-called "section 6" plans and are targeted for completion by September 30, 1985. For the six national forests in Utah, some plans may not actually be completed and implemented until 1986 or later due to administrative problems including delay resulting from the cloud of the California lawsuit and the debate taking place as a result of pending legislation.

One of the goals of RARE II was to consider the wilderness potential of national forest roadless areas. The Committee believes the further consideration of wilderness during development of the initial plans for the national forest system roadless areas as defined by section 201, not designated as wilderness upon enactment of S. 2155 would be duplicative of the study and review which has recently taken place by the Forest Service and the Congress. Therefore, the release language of S. 2155 provides that wilderness values of these areas need not be reviewed again during development of the "first generation plans." Moreover, the language provides that during development of, and prior to or during revision of

initial plans, released areas need not be managed for the purpose of protecting their suitability for wilderness designation.

Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are targeted for completion by September 30, 1985. The NFMA provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide that a forest plan "shall ordinarily be revised on a 10-year cycle or at least every 15 years." (36 CFR 219.10(g)). The language of S. 2155 tracks these regulations.

The bill, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it revises the initial plans. By using the word "revision" the Committee intends to make it clear, consistent with NFMA and current Forest Service regulations, that amendments or even amendments which might "result in a significant change" in a plan, would not trigger the need for reconsideration of the wilderness option and section 201 so provides. The wilderness option does not need to be reconsidered until the Forest Service determines, based on a review of the lands covered by a plan, that conditions in the area covered by a plan have changed so significantly that the entire plan needs to be completely revised.

A revision of a forest plan will be a costly undertaking in terms of dollars and manpower and the Committee does not expect such an effort to be undertaken lightly. Every effort will be made to address local changes through the amendment process leaving the revision option only for major, forest-wide changes in conditions or demands.

For example, if a new powerline were proposed to be built across a forest, this would be accomplished by an amendment, not a revision, and therefore the wilderness option would not have to be re-examined. Likewise, the construction of new range improvements or adjustments in livestock allotments for permittees would not constitute a "revision". It is only when a proposed change in management would significantly affect overall goals or uses for the entire forest concerned, that a "revision" would occur.

For example, the recent eruption of Mt. St. Helens, because it affected so much of the Gifford Pinchot National Forest, including the forest's overall timber harvest scenario, would likely have forced a "revision" of the plan. Likewise, decisions to increase dramatically timber harvest levels on an entire forest or to change a multiplicity of uses in order to accommodate greatly increased recreation demands might force a "revision". In this regard, the Committee wishes to note, however, that in the vast majority of cases the 10-15 year planning cycle established by NFMA and the existing regulations is short enough to accommodate most changes. It is highly unlikely that conditions will change so dramatically in 10-15 years so as to require more frequent "revisions". For example, it would be hard to envision a scenario under which demands for primitive, semi-primitive or motorized recreation would increase so rapidly over an entire national forest that the Forest Service would feel obliged to revise a plan prior to the normal 10-15 year life span. Recreation demands might increase in a specific

area or areas, but such demands could be met by amending the plan, as opposed to revising it.

Forest Service Chief Max Peterson has indicated that, in his view, most plans will be in existence for approximately 10 years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum lifespan absent extraordinary circumstances. The Committee understands and expects that with first generation plans to be in effect by late 1985, or slightly later, the time of revision for most plans will begin around 1995. In almost every case, the Committee, therefore, expects that the consideration of wilderness for these roadless areas will not be reexamined until approximately 1995. The Committee notes that administrative or judicial appeals may mean that many first generation plans are not actually implemented until the late 1980's, in which case plan revisions would be unlikely to occur until around the year 2000, or beyond. Or, if the full 15 years allowed by NFMA runs before a revision is undertaken, the wilderness option may not in some cases be reviewed until the year 2000 or later.

The question has also arisen as to whether a "revision" would be triggered if the Forest Service is forced by the courts to modify or rework an initial plan, or if the Forest Service withdrew an initial plan to correct technical errors or to address issues raised by an administrative appeal. The Committee wishes to state in the most emphatic terms possible, that any reworking of an initial plan for such reasons would obviously not constitute a "revision" of the plan that would reopen the wilderness questions. Rather, any such reworking would constitute proper *implementation* of the plan. The logic for the Committee's reasoning in this regard is that any such court ordered or administrative reworking or modification of a plan would come about to resolve questions related to the preparation and implementation of the plan in accordance with the requirements of NFMA and other applicable law. So such reworking or modification would not be a "revision" (which pursuant to NFMA and the implementing regulations is to be based on changed conditions or demands on the *land*), since a plan must be properly prepared and implemented before it can be "revised".

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness status for a succession of future planning processes. Such a requirement would completely frustrate the orderly management of nonwilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act as amended.

To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness need not be managed for the purpose of protecting their suitability for further wilderness review prior to or pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wil-

derness option in future generations of section 6 plans is required only for those lands which may be suited for wilderness at the time for the implementation of the future plans. Between the planning cycles, the uses authorized in the plan in effect can proceed until a new plan is implemented. In short, one plan will remain in effect until the second plan is implemented. For lands recommended for nonwilderness uses in future generations of plans there is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness. Thus, it is likely that many areas studied for wilderness in one generation of plans may not physically qualify for wilderness consideration by the time the next generation of plans is prepared. As an example of this, the Committee notes that many areas studied for wilderness in RARE II and recommended for nonwilderness have already been developed since their administrative "release" in April of 1979.

Therefore, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once a second-generation plan is implemented in accordance with applicable law including the National Environmental Policy Act, the Forest Service may, of course, manage a roadless area not recommended for wilderness designation according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness designation at the time of the third-generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation of the particular lands in question still possess wilderness attributes. However, there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

In short, this language means that the Forest Service cannot be *forced* by any individual or group through a lawsuit, administrative appeal, or otherwise to manage lands not recommended for wilderness designation in a "de facto" wilderness manner. Of course, the Forest Service can, if it determines it appropriate, manage lands in an undeveloped manner, just as it can, if through the land management planning process it determines it appropriate, develop released lands. The emphasis here is that the Forest Service will be able to manage released lands in the manner determined appropriate through the land management planning process.

However, the language also provides that lands recommended for wilderness in future generations of plans shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law upon implementation of such plans.

The final issue addressed by the Committee in section 201 of S. 2155 pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process,

unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Utah for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III".

GRAZING IN WILDERNESS AREAS

This section directs the Secretary to review Forest Service policies, practices and regulations regarding livestock grazing in National Forest wilderness areas in Utah to insure that they are consistent with the intent of Congress expressed in section 4(d) of the Wilderness Act and section 108 of Public Law 96-560. Livestock interests have expressed the concern that wilderness classification will prompt the Secretary of Agriculture, through the Forest Service, to cancel or curtail livestock grazing in wilderness. Specific language was included in the Wilderness Act of 1964 to provide for the continuation of livestock grazing. The language in section 301 reaffirms that intent.

STATE WATER ALLOCATION AUTHORITY

Section 302(a) is self-explanatory.

Section 302(b) states that in certain areas designated as wilderness the Forest Service is directed to take additional measures to insure protection of the watersheds that act as primary sources of municipal water for local communities in Utah. The section also provides for motorized access to provide minimum maintenance of watershed facilities. The installation of watershed facilities may occur if they prevent the degradation of the water supply. The Committee notes that the facilities could include small-scale water diversions, spring development and pipeline placement or other similar water resource development. All subject to regulations as deemed necessary by the Secretary to preserve the wilderness attributes.

Section 302(c) is self-explanatory.

BUFFER ZONES

The Committee substitute amendment includes language that has appeared in several wilderness bills since 1980, stating the intent of Congress that the designation of wilderness areas not lead to the creation of protective perimeters or buffer zones around each wilderness.

MINERAL RESOURCES

This section provides for the continued assessment or mineral potential in wilderness areas. The committee reaffirms the previously

expressed intent of the Congress that the Nation needs to have a thorough inventory of its mineral and energy resources, including those in units of the National Wilderness Preservation System.

ACCESS TO EQUIPMENT INSTALLATIONS

The Committee substitute provides for installation and maintenance of specific equipment located in eight areas designated as wilderness by the Act. The Committee anticipates the installation and maintenance to be performed primarily by helicopter. Before such equipment is included in the wilderness it should be determined that such equipment is essential to flood warning, flood control or water reservoir operation purposes. Limited motorized access is to be a second alternative used only when other means are not available. The Committee is aware that the Secretary of the Interior and the Secretary of Agriculture are developing a joint policy to provide uniform guidance to Federal land managers, forecasters, institutions and other Government agencies who are involved in the operation of such equipment. The Committee urges a prompt development and implementation of such a policy.

SPECIAL PROVISIONS

The Committee substitute significantly changes the boundaries of the Box-Death Hollow Wilderness area from the proposal as introduced. Those areas adjacent to the Box-Death Hollow Wilderness area, and generally depicted as the "Antone Bench Area" or area 1, and areas 2, 3, 4, and 5 on the map entitled "Box-Death Hollow Wilderness", were excluded from wilderness in the Committee substitute for the express purpose that they be made available for leasing and development of carbon dioxide reserves. Since introduction of S. 2155 in November 1983, the Utah delegation has received evidence of a significant discovery of carbon dioxide in and around the Box-Death Hollow Wilderness area as originally proposed. In order to allow the maximum development of the carbon dioxide deposit, while yet maintaining the essential wilderness characteristics of the adjacent Box-Death Hollow area, areas 1-5 were excluded from the substitute.

Accordingly, section 306 contains a number of specific terms and conditions that will govern the carbon dioxide leasing and development process.

The Mineral Leasing Act requires that lease applications describe lands by the smallest legal subdivision of the public lands survey. Those rectangular areas obviously do not conform to land contours. In leases issued pursuant to this subsection, the lands to be included in such leases shall be described by the smallest legal subdivision through which the boundary of the wilderness area shall run, nevertheless, the legal and actual boundary of the lease shall be the boundary of the wilderness area as depicted on the reference map. It is intended, hereby, to insure that none of areas 1-5 be excluded from the leasing pursuant to this subsection but that none of the land designated as wilderness will be leased.

Thus, the area actually leased will follow the contour of the wilderness boundary.

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101 Findings and Purposes

This section sets out a series of findings and purposes. These are patterned after other wilderness measures reported by the Senate Energy and Natural Resources Committee since 1979.

Section 102 Designation of Wilderness Areas

This section includes the designation of 12 new National Forest wilderness areas in Utah totaling approximately 750,000 acres of wilderness.

Section 103 Maps and Legal Descriptions

This section includes standard language common to all wilderness legislation regarding management of the area, maps and legal descriptions.

TITLE II

Section 201 Release Language

This section includes the compromise "release" language drafted by Senator McClure and Congressmen Udall and Seiberling, and agreed to by the Senate Energy and Natural Resources Committee (see the "Committee Amendment" portion of this report for a discussion of these provisions).

TITLE III

Section 301—Grazing Provisions

This section contains language regarding grazing in wilderness areas.

Section 302—Watershed and Fish and Wildlife

This section contains standard savings clauses on State water laws and jurisdiction and responsibilities with respect to wildlife and fish in the National Forests in Utah. The section also contains special watershed protection provisions in certain wilderness areas in Utah.

Section 303—Buffer-Zone Language

This section contains language prohibiting the establishment of buffer zones around wilderness areas in Utah.

Section 304—Mineral Resources

This section contains standard language directing continuing mineral assessments of the wilderness areas in Utah.

Section 305—Access to Equipment

This section provides for the installation and maintenance of certain equipment in certain wilderness areas in Utah for flood warning, control and reservoir operation purposes.

Section 306—Special Provisions

This section provides for special management of certain lands adjacent to the Box-Death Hollow Wilderness for possible carbon dioxide removal.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not intend that this measure (S. 2155) authorize any additional budget authority for fiscal year 1984 and fiscal year 1985 than that already available to the Department of Agriculture. The Committee intends that if any fiscal year 1984 and fiscal year 1985 costs are incurred from implementation of the bill that they will be absorbed within funds otherwise available to the Department of Agriculture.

The likelihood that the Committee on Energy and Natural Resources would report the measure, S. 2155, was reflected in its March 15, 1984 report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization.

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 3, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2155, the Utah Wilderness Act of 1984, as ordered reported by the Senate Committee on Energy and Natural Resources, August 1, 1984.

This bill designates as wilderness approximately 750,000 acres of national forest land in the State of Utah. It is estimated that additional costs to the federal government related to surveying and planning as a result of the wilderness designations will be approximately \$1 million over the five fiscal years beginning in 1985, based on information from the National Forest Service.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. Based on information from the National Forest Service, it is estimated that the annual potential yield of the areas being designated as wilderness is approximately 15-20 million board feet. However, all of this timber had been removed from the timber base because it was in areas that had been managed as potential wilderness additions. Thus, no loss of timber receipts is expected to result in the near term from enactment of this bill.

Lands designated as wilderness are also withdrawn from mineral activity under the terms of the National Wilderness Preservation Act. However, based on currently available information, we cannot

estimate the amount of mineral receipts that may be lost as a result of these wilderness designations.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by an act of Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. Title II of S. 2155 removes from this review all roadless areas in Utah included in the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II) for the period of the initial forest plans (10-15 years). This could result in a small decrease in land management planning costs over this time.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2155. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2155 as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to S. 2155 are set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, April 10, 1984.

HON. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 2155, a bill "To designate certain National Forest System lands in the State of Utah for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, and for other purposes."

The Department of Agriculture recommends that S. 2155 be enacted if amended as suggested herein.

Title I of S. 2155 would designate 11 wildernesses, totaling 706,736 acres, in the State of Utah. Title II provides that other National Forest lands in the State of Utah not designated wilderness would be released for multiple uses other than wilderness through the year 2000. Title III includes special provisions for grazing uses within the designated wildernesses, including allowing limited use of motorized equipment associated with grazing use. Other special

provisions include: protection of existing water rights, watershed protection, continued State authority for wildlife and fish management, prohibition of wilderness buffer zones, continued State jurisdiction for any air quality redesignations, direction to continue mineral inventories, and direction to allow some limited motorized access for specific purposes.

Seven of the 11 areas in the bill were recommended for wilderness in the RARE II Final Environmental Impact Statement. These areas total 599,386 acres. The specific proposals are the High Uintas, Wellsville Mountain, Mount Olympus, Twin Peaks, Dark-Woodenshoe Canyon, Ashdown Gorge, and Pine Valley Mountain. Three of the proposals, Box-Death Hollow, Mount Naomi, and Mount Nebo, were identified for further planning in RARE II. These areas total 96,600 acres. The remaining proposal, Mount Timpanogos, was not included in RARE II evaluations.

The Administration supports the designation of the seven RARE II areas recommended for wilderness, but we suggest that several amendments and boundary adjustments be made as indicated in section 1 of the enclosed supplemental statement. Recent activity north of the High Uintas proposed wilderness indicates a continuing interest and potential for oil and gas resource from this northern portion of the proposal. Information provided to us by the Department of the Interior has previously indicated the potential for oil and gas to be low south of the North Flank fault. This fault is located north of the proposed wilderness boundary. After review of some of the new seismic data, that is confidential and proprietary, the Department of the Interior believes that the potential for oil and gas may be higher than it originally estimated.

Even though we would prefer to complete the further planning on the Mount Naomi, Mount Nebo, and Box-Death Hollow, we do not oppose wilderness designation. The planning done to this point and the public opinion for these proposals support wilderness designation. We propose some boundary adjustments for these areas as described in section 2 of the enclosed supplemental statement. Also, we are aware that there has been a carbon dioxide discovery near the Box-Death Hollow proposed wilderness. The Department of the Interior indicates also that there appears to be potential for oil and gas. We feel that the Committee should be fully aware of the potential value of these resources before final decisions are made on wilderness designation.

We do not oppose a wilderness designation for Mount Timpanogos. Planning on this area prior to RARE II resulted in its being managed for recreation purposes as a scenic area. Because the area planning has been completed, Mount Timpanogos was not included in RARE II. Even though we prefer the existing management for the area, it could be managed as a wilderness.

Included in these wilderness proposals are commercial forest lands with a total potential yield of approximately 16-20 million board feet per year, over 50,000 acres of oil and gas leases, including approximately 14,000 acres in the High Uintas proposed wilderness, and off road vehicle use in several areas, including snowmobiling.

Within the proposed Twin Peaks and Mt. Olympus wildernesses, we currently carry out avalanche control activities to protect prop-

erty and lives along highways in Little and Big Cottonwood Canyons. This activity will be continued in the wildernesses. The Stansbury area, recommended for wilderness in RARE II but not designated by this legislation, is adjacent to an area being studied for wilderness by the Bureau of Land Management (BLM). We have been cooperating with BLM on the possibility of a unified wilderness proposal. Upon completion of the BLM study, the entire area may merit additional congressional consideration.

With our recommended amendments, we can support the wilderness designations in the bill even though they differ from the original RARE II recommendations. We understand the bill represents a comprehensive Statewide proposal that has public support and reflects a balanced concern for wilderness and other resource uses in the State of Utah. We strongly support the release of lands not designated as wilderness as provided in Title II.

We have major concerns with the special provisions contained in Title III. Some of the provisions appear to restate existing authority with new words. Other provisions appear to provide additional statutory authority which would conflict or override the Secretary's basic authority to manage the areas as wilderness as provided in Title I, section 103(b). For example, section 310 is generally consistent with the Wilderness Act and the subsequent House guidelines, but it inaccurately refers to grazing rights and leases rather than privileges and permits. We do not see a need to identify the specific permit numbers or give additional direction as done in section 310(c) since the existing guidelines apply to all existing permits.

Section 302 initially restates existing authority regarding the continuation of existing water laws, then provides additional direction concerning sanitary facilities and motorized access. We do not believe this to be necessary since there is already adequate authority to accomplish the actions should it be necessary in the management of the wilderness.

Section 305 would amend the Wilderness Act in Utah to allow activities in wilderness including motorized access which are not generally permitted by the parent Act. We believe that there is generally adequate authority in the Wilderness Act to accomplish hydrometeorological monitoring needs. If the Committee determines that specific statutory language is necessary, it should apply only to the specific area or areas where hydrometeorological monitoring and associated access are essential to flood warning and control with such use being authorized by the Secretary of Agriculture.

We urge that Title III be deleted; however, if Title III is not eliminated, we urge that it be modified to more clearly parallel the Wilderness Act and avoid new terminology. We would be willing to work with the Subcommittee to answer specific questions or concerns regarding Title III.

We estimate that surveying, planning, and related activities necessary to implement the wilderness designations in this bill would cost approximately \$1 million over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary*.

Enclosure.

USDA SUPPLEMENTAL STATEMENT ON S. 2155 AND H.R. 4516—
RECOMMENDED BOUNDARY ADJUSTMENTS

SECTION 1

High Uintas

In the High Uintas proposal, we propose some minor boundary adjustments. The area should be expanded to follow the RARE II recommended boundary in the upper Uinta River and minor revisions are needed along the north boundary to improve manageability.

Dark-Woodenshoe Canyon

The Dark-Woodenshoe Canyon proposal has a corridor which excludes the Peavine road from the proposed wilderness. A continued corridor would detract from the wilderness character of the area and would be difficult and costly to administer. The primitive Peavine road should be closed. We strongly recommend that the corridor be included in the wilderness.

Twin Peaks

In the Twin Peaks proposal, we would prefer to have the boundary in the Mineral Fork area on the northeast side of the wilderness follow the distinct ridgeline rather than the contour line along the lower slope. To avoid confusion with another nearby peak, called Twin Peak, we suggest this wilderness be named the Storm Mountain Wilderness.

Pine Valley Mountain

In the Pine Valley Mountain proposal, we feel the existing trails which parallel the wilderness boundary should be included within the wilderness. We have provided the Committee with maps showing our recommended boundaries.

SECTION 2

Mount Naomi

The Mt. Naomi further planning area is in both Utah and Idaho. This bill includes only the Utah portion of the area. We recommend that the north boundary, which stops short of the Utah-Idaho border, be placed on the State line. This would preserve future options in considering the Idaho portion of the area at a later date.

Mount Nebo

We recommend significant adjustments in the boundaries of the Mount Nebo proposal to include the Santaquin roadless area of

12,800 acres to the immediate north and the inclusion within the wilderness of several corridors on the south and west sides.

Box-Death Hollow

We recommend adjustment in boundaries of Box-Death Hollow to delete areas of low wilderness character or where development activity is evident. We have provided the Committee with maps showing these recommended adjustments.

ADDITIONAL VIEWS OF SENATOR WALLOP

Concern has been expressed by Senators Garn and Hatch over whether the Wilderness Act allows predator control to be practiced within wilderness areas.

During Senate hearings on the Utah bill, several user groups testified in support of the need for a consistent policy allowing and implementing predator control practices in wilderness areas in the National Forest System in Utah.

I wish the Committee to note that it is my understanding that the Wilderness Act does allow for predator control in wilderness areas in the National Forest System under reasonable regulations as the Secretary may prescribe and that this issue need not be a point of concern.

MALCOLM WALLOP.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2155 as reported.

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